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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of:

Strecker, Timothy D. et al.

Serial No.: 10/765,628

Filed: Jan. 27, 2004

Docket: 200312175-1

Title: DISPENSING APPARATUS INCLUDING
A CERAMIC BODY

DECISION ON PETITIONS

This is a decision on the petition filed on May 29, 2007 by which petitioner requests the examiner to withdraw the restriction requirement mailed on Oct. 10, 2006; and a decision on the petition filed on Nov. 20, 2007 by which petitioner requests the examiner's refusal to enter the amendment filed Jun. 27, 2007 be overruled. The petitions are being considered pursuant to 37 CFR 1.181, and no fee is required.

These petitions are dismissed as moot.

Discussion and Analysis

A review of the prosecution history shows that an election of species was mailed on Nov. 9, 2006. The applicant elected with traverse for examination the specie represented by Fig. 7. On Feb. 23, 2007, the examiner issued a first action on the merits and additionally held claims 2-4, 14, 39, 40, 43 and 44 as not readable on the elected species of Fig. 7. On May 29, 2007, the current petition to withdraw the election of species requirement was filed. On Jun. 27, 2007, the applicant also filed an amendment amending independent claims 1, 38 and 42. An Office action was mailed on Sep. 20, 2007 and held the amendment of Jun. 27, 2007 non-responsive because the amended claims were directed to the non-elected specie of Fig. 3. Subsequently, the current second petition was filed requesting the amendment filed on Jun. 27, 2007 be entered and the election of species be withdrawn as requested in the first petition. In addition, the applicant also filed another amendment to substantively amend independent claims 1, 38 and 42 and pointed out the added limitations define over the prior art references. After consideration of the amendment of Nov. 20, 2007, the examiner found the amended independent claims 1, 38 and 42 are allowable. The examiner also rejoined and allowed the non-elected claims as indicated in the Notice of Allowance mailed Feb. 27, 2008.


After a careful study of the entire prosecution history, the relief requested in the first petition of May 29, 2007 has occurred when the examiner withdrew the restriction requirement in the Notice of Allowance and allowed all claims 1-59. With regard to the second petition of Nov. 20, 2007, the relief requested became moot because the applicant has submitted a new amendment on Nov. 20, 2007. The examiner has entered that new amendment and allowed all claims as indicated in the Notice of Allowance mailed Feb. 27, 2008.

Conclusion

In view of the prosecution record of this application, the examiner has withdrawn the restriction requirement of Oct. 10, 2006 and allowed all claims as amended Nov. 20, 2007. The petitions of May 29, 2007 and Nov. 20, 2007 are considered moot and dismissed.

The application is being forwarded to the Office of Publications waiting for payment of issue fee. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITIONS DISMISSED AS MOOT.



Frederick R. Schmidt, Director
Technology Center 3700